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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,491	12/15/2003	William E. Mazzara JR.	GP-304240 (2760/151)	3801
7590 General Motors Corporation Legal Staff, Mail Code 482-C23-B21 300 Renaissance Center P.O. Box 300 Detroit, MI 48265-3000			EXAMINER IWARERE, OLUSEYE	
			ART UNIT 3687	PAPER NUMBER
			MAIL DATE 06/09/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/736,491

**Applicant(s)**

MAZZARA, WILLIAM E.

**Examiner**

OLUSEYE IWARERE

**Art Unit**

3687

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 22-30 is/are pending in the application.
- 4a) Of the above claim(s) 1-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

**DETAILED ACTION**

1. This communication is in response to the correspondence received on January 26, 2009. Claims 22 - 33 and the remarks filed have been considered below.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 22 – 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kolls (6,615,186) in view of Muratani et al. (6,119,109).**

**As per claim 22,** A system for providing a telematics service to a mobile vehicle, the system comprising:

a communications unit in the mobile vehicle for connecting to a remote location ([abstract] discusses an in-vehicle device for data communications);

a response system at the remote location providing at least one promotional service as a choice to a user in the mobile vehicle (figs. 1b-j depict response systems at remote locations);

a timing unit associated with the communications unit, responsive to the response system, wherein the timing unit is configured to monitor the at least one

promotional service by the user in the mobile vehicle (col. 25, lines 47 – 54; discuss a timing unit); and

means for charging the user a fee for use, occurring after the period of free use expires, of the at least one promotional service (fig. 18, block 1720 discusses charging and billing).

However, Kolls fails to explicitly disclose a period of free use.

Muratani teaches an information distribution system and billing system with the feature of a period of free use (col. 19, lines 1 – 38; discusses a charge free period).

From this teaching of Muratani, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Kolls to include the period of free use taught by Muratani, in order to provide billing service to the user.

**As per claim 23**, further comprising means for receiving a request for the at least one promotional service (fig. 12 depicts requesting for promotional service).

**As per claim 24**, further comprising a user interface operatively connected to the communications unit and configured to prompt the user of the mobile vehicle for the request (fig. 4, depicts a user interface to prompt the user).

**As per claim 25**, further comprising means for determining if a period of use, occurring after the period of free use expires, of a previously-received promotional

service exists, wherein the timing unit is further configured to decrement the period of use of the previously-received promotional service from a user account balance (fig. 4 depicts the means for determining).

**As per claim 26**, further comprising:

means for determining if the connection between the communications unit and the remote location has been terminated (fig. 4 depicts the means for determining); and

if the connection has been terminated, means for determining if a period of use, occurring after the period of free use expires, of the at least one promotional service exists (fig. 4 depicts the means for determining).

**As per claim 27**, Kolls discloses the claimed invention but fails to explicitly disclose wherein if a period of use of the at least one promotional service exists, the timing unit is further configured to decrement the period of use of the at least one promotional service from a user account balance.

Muratani teaches an information distribution system and billing system wherein if a period of use of the at least one promotional service exists, the timing unit is further configured to decrement the period of use of the at least one promotional service from a user account balance (col. 24, lines 36 – 45; decreasing billing process times).

From this teaching of Muratani, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system and method of

Kolls to include the decrementing the period of use, taught by Muratani, in order to allow the customer to maintain service.

**As per claim 28**, further comprising means for determining if the at least one promotional service period of free use is greater than zero (fig. 4 depicts the means for determining).

**As per claim 29**, wherein if the at least one promotional service period of free use is not greater than zero, the system further comprises:

means for providing the at least one promotional service to the user (fig. 4 depicts the means for providing); and

means for charging a fee to the user of the mobile vehicle for a period of use of the at least one promotional service (fig. 4 depicts the means for charging).

**As per claim 30**, further comprising means for providing the at least one promotional service to the user for free during the period of free use (fig. 4 depicts the means for providing).

### ***Response to Arguments***

8. Applicant's arguments filed January 26, 2009 have been fully considered but they are not persuasive.

Applicant submits that "the interactive digital content and advertisement content server routine depicted in Fig. 5 of Kolls does not teach that at least one promotional service is provided to the user as a choice... Kolls does not disclose or even suggest that the server presents the content to the user as a choice."

However, the Examiner would like to point out yet another section in the prior art, fig. 18 and col. 53, line 63 – col. 54, line 6, which states, "An Internet based audio and video server routine allows a user to select music and video" which is another "promotional service as a choice to a user in the mobile vehicle" which is construed to also meet the claim.

In addition, the Examiner states that while smaller sections of the prior art are cited to meet the claim, the reference as a whole is being presented to meet the limitations of the claim. Therefore, the Examiner respectfully disagrees.

Applicant points out that "the *reference fails* to teach or even suggest that the period of free use is associated with a *promotional service*. To reiterate from Applicant's Amendment dated... As such, the free charge is associated with the actual service (e.g., the movie in the example provided above); and *not* associated with a promotional service."

However, in the Muranti reference, the video-on-demand movie is construed as the promotional service.

In addition, the claim states, "a timing unit associated with the communications unit, responsive to the response system, wherein the timing unit is **configured to**

monitor a period of free use of the at least one promotional service by the user in the mobile vehicle.

The Examiner points to MPEP 2106 II C:

The subject matter of a properly construed claim is defined by the terms that limit its scope. It is this subject matter that must be examined. As a general matter, the grammar and intended meaning of terms used in a claim will dictate whether the language limits the claim scope. Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. The following are examples of language that may raise a question as to the limiting effect of the language in a claim:

- (A) statements of intended use or field of use,
- (B) "adapted to" or "adapted for" clauses,
- (C) "wherein" clauses, or
- (D) "whereby" clauses.

This list of examples is not intended to be exhaustive. See MPEP § 2106 II C. See also MPEP § 2111.04.

Therefore, the Examiner respectfully disagrees.

### ***Conclusion***

1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLUSEYE IWARERE whose telephone number is (571)270-5112. The examiner can normally be reached on M-Th.



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew S. Gart can be reached on (571)272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matthew S Gart/  
Supervisory Patent Examiner, Art  
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